

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-10472-2023

Date of Decision:-17.08.2023

Nitin Kumar.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Grewal, Advocate for the Petitioner.

Ms. Ram K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.172 dated 22.10.2020 under Sections 302, 34 IPC and Sections 25 & 27 of Arms Act registered at Police Station Sadar Malout, District Sri Muktsar Sahib.

2. The brief facts of the case are that the present FIR was registered against unknown persons on the statement of Rajveer Kaur wife of Ranjit Singh. She stated that her marriage had been solemnized with the deceased Ranjit Singh @ Rana about 2-1/2 years ago and one female child had been born from the wedlock. She along with her husband in their car bearing number PB-13BB-5589 came to village Aulakh from Muktsar and when their car reached near the hospital of village Aulakh then at about 3/3.30 pm three young persons came out of the Swift Car and started shooting at her husband. On her raising a hue and cry all the accused fled away from the spot with their weapons. She could identify the accused.

During the course of investigation, the offence under Section 34 IPC was deleted and the offences under Section 148, 149, 120-B, 212, 473 IPC were added. The names of 15 accused including the petitioner were nominated in the FIR as per details mentioned hereinbelow:-

- (a) Six persons i.e. (1) Lawrance Bishnoi son of Lavinder Kumar (2) Pushkar Partap Singh son of Amandeep Singh (3) Balwinder Singh @ Minkal Bajaj son of Surjit Singh (4) Balkaran Singh @ Vicky son of Azad Singh (5) Yadwinder Singh @ Chandi son of Sukhwinder Singh and (6) Vikramjit Singh @ Vicky son of Gurdial Singh were nominated in the FIR in question vide DDR No.33 dated 24.10.2020 on the supplementary statement of the complainant.
- (b). Monu Sukha son of Lakhmi was nominated in the FIR in question vide DDR No.32 dated 21.11.2020 on the statement of Manjit Kaur (mother of the deceased).
- (c). Pawan Nehra son of Daya Ram and Jaspal Singh @ Sarpanch son of Bir Singh were nominated in the FIR in question vide DDR No.23 dated 30.11.2020 on the statement of Manjit Kaur (mother of the deceased).
- (d) Sampat Nehra son of the deceased) Ram Chander was nominated in the FIR in question vide DDR No.20 dated 03.12.2020.
- (e) Satinderit Singh @ Goldi son of Shamsher Singh was nominated in the FIR in question vide DDR No.30 dated 17.12.2020 on the statement of Manjit Kaur (mother of the deceased).
- (f) Jarmal Singh @ Jarmanjit Singh son of Surjit Singh was nominated in the FIR in question vide DDR No. 49 dated 08.03.2021 on the statement of Manjit Kaur (mother of the deceased).
- (g) Gurwinder Pal Singh @ Gora son of Jaj Singh was nominated in the FIR in question vide DDR No.14 dated 24.04.2021.
- (h) Jacki son of Babu Lal was nominated in the FIR in

question vide DDR No 48 dated 31.05.2022.

(i) The present petitioner was nominated in the FIR in question vide DDR No.17 dated 26.10.2022.”

The Swift car used in the commission of the offence was recovered from accused Monu @ Sukha and since a fake number plate had been affixed on the car, the offence under Section 473 IPC was added. Two 30 bore pistols and 05 live cartridges were recovered from Pawan Nehra.

During the investigation accused Jacki, Pushkar Partap Singh and Balwinder Singh @ Minkal Bajaj were found innocent. Incriminating evidence came against the other accused including the petitioner. Accused Vikramjit Singh @ Vicky has since died. The report under Section 173(2) Cr.PC was submitted against Sampat Nehra, Pawan Nehra, Monu @ Sukha, Jaspal @ Sarpanch and Gurinder Singh @ Gora.

The petitioner was arrested on 27.10.2022 and the supplementary challan was filed against him in the Court on 23.01.2023. The accused Lawrence Bishnoi was arrested. A red corner notice was issued for the accused Satinderjit Singh @ Goldi and a supplementary challan was filed in the court on 09.09.2022 against the said accused. The remaining two accused namely Satinderjit Singh @ Goldi and Yadwinder Singh are absconding.

3. The Counsel for the petitioner contends that the petitioner is not named in the FIR which came to be registered on 22.10.2020. Later on a supplementary statement of Manjit Kaur the mother of the deceased Ranjit Singh @ Rana was recorded on 26.10.2022 and the petitioner came to be nominated as an accused based on the said statement. The said statement had been recorded 02 years after the occurrence. However, even going by that statement, the petitioner is stated to have conducted a recce of the place of occurrence at the instance of the other accused. However, Manjit Kaur

herself has filed an affidavit dated 12.12.2022 as per which she has stated that no such statement had been given to the police regarding the culpability of the petitioner. A similar affidavit had also been given by Rajvir Kaur wife of the deceased to the similar effect. As there was no other evidence available against the petitioner and he was in custody since 27.10.2022, he was entitled to the concession of bail as none of the 38 prosecution witnesses had been examined so far whereas one of his co-accused namely Balkaran Singh @ Vicky had been granted the concession of bail vide order dated 12.12.2022 in CRM-M-32951-2022.

4. The Counsel for the State on the other hand contends that the petitioner along with his co-accused had committed the murder of Ranjit Singh @ Rana. As per allegations, the petitioner conducted the recce of the place of occurrence. Therefore, he was not entitled to the concession of bail. He however concedes that the petitioner is in custody since 27.10.2022 and none of the 38 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. As per the prosecution case the petitioner is stated to have conducted the recce of the place of occurrence. The said allegation was made in a supplementary statement of the complainant got recorded two years after the occurrence. The evidentiary value of the said statement along with the other evidence on record shall be a matter of adjudication during the course of trial. As the petitioner is in custody since 27.10.2022 and none of 38 prosecution witnesses have been examined so far, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Nitin Kumar** son of Sh.Vipin Kumar is ordered to be released on bail subject to his furnishing bail bonds and

surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 17, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No